REMARKS

Restriction requirement

In the Office Action of September 22, 2005 the Examiner asserts, in a restriction requirement, that the present application contains claims directed to two distinct inventions, Invention I (Claims 1-23) and Invention II (Claims 24-32). The Examiner further asserts that Invention I contains claims directed two distinct species, Species Ia (Claims 1-5, 9-12 and 18-23) and Species Ib (Claims 1-2, 6-8 and 13-23). The Examiner also asserts that Invention II contains claims directed two distinct species, Species IIa (Claims 24-29 and 31-32) and Species IIb (Claims 24-26 and 30-32).

Applicant requests that the Examiner reconsider the requirement for restriction as discussed below.

Applicant submits that 35 U.S.C. § 121 authorizes, but does not require, the USPTO to restrict an application to one invention if two or more independent and distinct inventions are claimed in one application. In view of the related filed of technology and in view of the expenses that would be imposed upon the Applicant by multiple patent applications and multiple patents, it is submitted that restriction requirements should be issued only when absolutely necessary.

Therefore, Applicant requests that the restriction requirement set forth in the Office Action of September 22, 2005 be withdrawn. However, as required under 35 USC § 121, the Applicant provisionally elects Invention I, Species Ia Claims 1-5, 9-12 and 18-23.

Additionally, Applicant expects the Examiner to use a consistent test with respect to what matters are obvious and what matters are unobvious throughout the prosecution of this application. Because the Examiner is adopting a particular standard for patentability in this case in terms of the election/restriction requirement, Applicant will expect that the same test be used throughout the prosecution of this application if the Examiner does not withdraw the election/restriction requirement made in the official action.

The traversal of the restriction requirement and the remarks regarding the traversal are being submitted without prejudice. Neither the traversal of the restriction requirement

nor the remarks regarding the traversal shall be interpreted as disputing the Examiner's finding that Invention I and Invention II are patentably distinct.

It is submitted that the application is in condition for allowance. Allowance of the application at an early date is solicited.

* * *

Conclusion

In view of the above, allowance of the pending claims is respectfully solicited.

The Commissioner is authorized to charge any additional fees which may be required or credit overpayment to deposit account no. 12-0415. In particular, if this response is not timely filed, then the Commissioner is authorized to treat this response as including a petition to extend the time period pursuant to 37 CFR 1.136 (a) requesting an extension of time of the number of months necessary to make this response timely filed and the petition fee due in connection therewith may be charged to deposit account no. 12-0415.

I hereby certify that this correspondence is being deposited with the United States Post Office with sufficient postage as first class mail in an envelope addressed to Commissioner for Patents P.O. Box 1450, Alexandria, VA 22313-1450 on

October 20, 2005
(Date of Deposit)

Shannon Tinsley
(Name of Person Signing)

Shannon Tinsley
(Signature)

October 20, 2005
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